

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

DAVID VANN,

Plaintiff,

-against-

CITY OF ROCHESTER, et al.,

Defendants.

**AMENDED PROPOSED ORDER**

**18-cv-6464 (EAW)(JMP)**

**ORDER**

As part of the discovery process in this civil rights case, the attorneys for the Plaintiff, with the consent of the attorneys for the non-party Monroe County District Attorney's office, seek to obtain the DA's file from Plaintiff's prosecution and the grand jury testimony and arguments presented before a Monroe County grand jury, which are presently in the possession of the Monroe County District Attorney's Office. The federal action before this Court alleges, *inter alia*, a 42 U.S.C. § 1983 claim for malicious prosecution under the Fourth and Fourteenth Amendments, arising out of the arrest and prosecution of David Vann. *See generally* ECF 7, Amended Complaint. Counsel for the DA's Office does not object to the unsealing of the requested file from Plaintiff's prosecution or the grand jury minutes. Counsel for the DA's Office indicates that its office does have copies of the file from Plaintiff's prosecution and the transcript of the grand jury presentation.

For the foregoing reasons, the Court grants the Plaintiff's unopposed request to unseal and directs the Monroe County District Attorney's Office to provide Plaintiff's counsel with the complete file from Plaintiff's prosecution and the transcript of the complete grand jury presentation, other than the following items:

- a. The Pre-Plea Investigation Report for Mr. Vann which was conducted by the Probation Department on behalf of Justice Sinclair. See CPL Section 390.50. *Confidentiality of pre-sentence reports and memoranda.*
- b. Records of medical treatment that was provided to RPD personnel after the incident and arrest in question in this litigation.
- c. Criminal histories of prosecution witnesses who testified at the Plaintiff's criminal trial.
- d. List of personal cell phone contacts for witnesses from the Plaintiff's criminal prosecution and trial.

Accordingly, and for the reasons stated herein, it is hereby:

**ORDERED**, that Plaintiff's unopposed motion requesting that the Court order the unsealing of the District Attorney's file related to his criminal prosecution is **GRANTED**; and it is further

**ORDERED**, that Plaintiff's unopposed motion requesting that the Court order the unsealing of the state grand jury minutes from his state criminal prosecution is **GRANTED**; and it is further

**ORDERED**, that Counsel for Plaintiff shall serve upon the Monroe County District Attorney's Office a copy of this Decision and Order, together with the Subpoena signed by the Clerk of the Court, directing that within sixty (60) days it produce the identified file from Plaintiff's criminal prosecution and grand jury minutes; and it is further

**ORDERED**, that the Monroe County District Attorney's Office advise the Court of the current custodian of the grand jury transcripts at issue, if it is not itself the custodian; and it is further

**ORDERED**, that the Clerk of the Court shall serve a copy of this Order upon the parties to this action in accordance with the Local Rules.

**IT IS SO ORDERED.**

  
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Hon. Mark J. Pedersen  
United States Magistrate Judge

Dated: Oct. 6, 2021  
Rochester, New York